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Attorney Docket No.: 3399P033

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application for:

Paul A. Smethers et al.

Serial No.: 09/825,383

Filing Date: April 2, 2001

For: GRAPHICAL USER INTERFACE  
FEATURES OF A BROWSER IN A  
HAND-HELD WIRELESS  
COMMUNICATION DEVICE

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Examiner: Tran, Mylinh T.

Group Art Unit: 2174

Certificate of Transmission

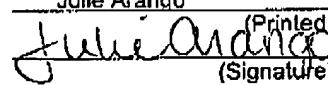
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 8/29/04

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EXAMINER INTERVIEW SUMMARY

Sir:

On September 29, 2004, Applicant's representative (the undersigned) telephoned Examiner Mylinh Tran to inquire about the status of this case. This interview summary documents that conversation and earlier, related conversations with the Examiner.

In prior conversations with Examiner Tran on July 14, 2004 and August 5, 2004, Examiner Tran had informed Applicant's representative orally that a supplemental Office Action would be mailed in this case, to replace the Office Action mailed on April 7, 2004. The reason for sending a supplemental Office Action was as follows:

On December 18, 2003, Applicant had responded to a telephone restriction requirement by the examiner who previously handled this case, Thomas Joseph, who is no longer with the PTO. In response to that restriction requirement, Applicant made a telephone election of claims 40-81 and filed multiple divisional applications. Applicant

found, however, that the restriction requirement was not reflected in the Office Action mailed on April 7, 2004. When Applicant brought this to Examiner Tran's attention, Examiner Tran indicated that she could find no record of a restriction requirement in the case file. However, since Applicant had already filed divisional applications in response to the telephone restriction requirement, Examiner Tran agreed to send a supplemental Office Action to reflect the withdrawal from consideration of claims 1-39 and 82-99, and that the time period to respond would be reset.

Applicant refrained from preparing a response to the Office Action mailed on April 7, 2004, solely because of Examiner Tran's statements to Applicant's representative that she was preparing a Supplemental Office Action (during July 14 phone call) and her subsequent statements that she had actually completed the supplemental Office Action and forwarded it to the PTO clerical staff for mailing (August 5 phone call). Because Applicant has not received any supplemental Office Action as of September 29, 2004 and the six-month statutory deadline (October 7, 2004) is now imminent, Applicant's representative initiated yet another follow-up phone call to Examiner Tran on September 29, 2004 to determine the status of this case.

During the September 29 phone call, Examiner Tran stated that, in making her prior statements that a supplemental Office Action would be sent, she had apparently confused this application with another application she is handling. However, in a follow-up call later that same day (September 29, 2004) with both Examiner Tran and her supervisor, a Mr. B.A. Huynh, Ms. Tran stated that she did in fact have a supplemental Office Action prepared and ready to mail for this case. Applicant was confused by the apparent inconsistencies in Ms. Tran's statements. Applicant expressed concern that Applicant might be prejudiced by reliance on Ms. Tran's statements that a supplemental

Office Action was going to be mailed. Applicant requested, therefore, that a supplemental Office Action be mailed expeditiously and that the time period to respond be reset. Mr. Huynh stated that he would discuss the situation with the Supervisory Primary Examiner and call Applicant's representative back.

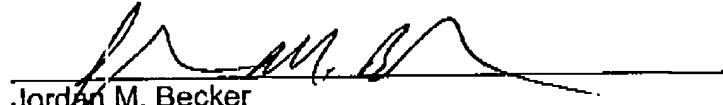
Subsequently, in a phone message left by Ms. Tran for Applicant's representative on September 29, 2004, Ms. Tran stated yet again that a Supplemental Office Action will be sent for this case shortly, and the 3-month time period to respond will be reset.

Applicant wishes to make of record the fact that Applicant has deferred preparing a response to the Office Action mailed on April 7, 2004 (and continues to do so) solely because of the Examiner's repeated statements that a supplemental Office Action will be sent and that the time period to respond will be reset. Applicant respectfully submits, therefore, that all delay thus far in this application is solely the fault of the PTO, not Applicant. Such delay, therefore, should not be allowed to prejudice Applicant's rights in this case and, further, should be applied to Applicant's benefit in calculating any patent term extension that may be permitted under the applicable statute and regulations.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 9/30/04

  
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